

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

LOIS HARMON, et al.,) CASE NO.
)
Plaintiffs,) JUDGE
)
v.) NOTICE OF REMOVAL ACTION
) UNDER 28 U.S.C. § 1441
DOLLAR GENERAL CORPORATION,)
et al.)
)
Defendants.

TO THE CLERK OF COURT:

PLEASE TAKE NOTICE that Defendants Dollar General Corporation and PepsiCo., Inc. (hereinafter referred to as "Defendants") hereby move to this Court, pursuant to 28 U.S.C. § 1441(a), the state court action described below:

1. On or about December 17, 2020, Lois Harmon and Charles Harmon ("Plaintiffs") filed a Complaint initiating suit in the Court of Common Pleas, Summit County, Ohio, against Defendants, captioned *Lois Harmon, et al. v. Dollar General Corporation, et al.*, Case No. CV-2020-12-3508 (a copy of the Complaint is attached hereto as **Exhibit A**).
2. The Complaint was served on Dollar General Corporation on January 8, 2021.
3. The Complaint was served on PepsiCo., Inc. on December 26, 2020.
4. As explained below, there is complete diversity of citizenship between Plaintiffs, Dollar General Corporation, and PepsiCo., Inc. to this action, and the amount in controversy in this action exceeds the \$75,000.00 jurisdictional minimum.

I. THIS REMOVAL NOTICE IS TIMELY.

5. The docket in Summit County reflects that Defendants were served with the Complaint on January 8, 2021 and December 26, 2020 (a copy of the Summit County docket is attached hereto as **Exhibit B**).

6. Pursuant to 28 U.S.C. § 1446(b), “[the] notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendants, through service or otherwise, of a copy of the initial pleading.”

7. As this Notice is being filed on January 20, 2021, Defendants’ Notice of Removal is timely.

II. DIVERSITY JURISDICTION LIES OVER THIS ACTION.

8. This is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendants pursuant to 28 U.S.C. § 1441(a).

9. Plaintiffs have alleged in the Complaint that they are residents of the State of Ohio.

10. Defendant Dollar General Corporation is a corporation organized under the laws of the State of Tennessee with its principal place of business in Goodlettsville, TN.

11. Defendant PepsiCo., Inc. is a corporation organized under the laws of the State of North Carolina with its principal place of business in Purchase, NY.

12. The allegations contained in Plaintiffs’ Complaint, coupled with the available facts surrounding Plaintiffs’ claims, demonstrate that the amount in controversy exceeds \$75,000.00, inclusive of interest and costs.

13. Plaintiffs’ Complaint is for personal injuries allegedly suffered.

14. Plaintiffs' claim that, as a result of the incident, the sustained damages are believed to be an amount in excess of \$25,000.00.

15. Therefore, as there is complete diversity of citizenship and the amount in controversy exceeds \$75,000.00, this Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332(a).

III. THE OTHER REMOVAL PREREQUISITES HAVE BEEN SATISFIED.

16. Defendants have sought no similar relief with respect to this matter.

17. Written notice of the filing of this Notice of Removal will be given to all adverse parties as required by 28 U.S.C. §1446(b).

18. As required by 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Defendants in the state court proceeding - consists of the Complaint filed herewith as **Exhibit A**.

19. The allegations of this Notice are true and correct and this cause is within the jurisdiction of the United States District Court for the Northern District of Ohio, Eastern Division.

WHEREFORE, Defendants respectfully request that this action be transferred to the United States District Court for the Northern District of Ohio, Eastern Division, and pray that this Court assume full and complete jurisdiction over this matter.

Respectfully submitted,

/s/ Tracey S. McGurk

TRACEY S. MCGURK (0069631)
JEFFREY M. EMBLETON (0006480)
Mansour Gavin LPA
North Point Tower
1001 Lakeside Avenue, Suite 1400
Cleveland, OH 44114
P: (216) 523-1500
F: (216) 523-1705
tmcgurk@mggmlpa.com
jembleton@mggmlpa.com

*Counsel for Defendant
PepsiCo., Inc.*

/s/ Gregory G. Guice (per consent)

GREGORY G. GUICE (0076524)
Reminger Co., L.P.A.
101 West Prospect Avenue, Suite 1400
Cleveland, OH 44115
P: (216) 430-2227
F: (216) 687-1841
gguice@reminger.com

*Counsel for Defendant
Dollar General Corporation*

CERTIFICATE OF SERVICE

This is to certify that the *Notice of Removal Action Under 28 U.S.C. §1441* has been filed electronically with the Court this 25th day of January 2021. Notice of the following will be sent to all counsel through the Court's electronic filing system. The parties can access this document through the Court's system.

A copy of the foregoing was also emailed this 25th day of January 2021 to the following:

Brian Zimmerman, Esq.
229 Third Street, NW
Canton, OH 44702
bz@bzimmermanlaw.com

Counsel for Plaintiffs
Lois and Charles Harmon

Gregory G. Guice, Esq.
Reminger Co., L.P.A.
101 West Prospect Avenue, Suite 1400
Cleveland, OH 44115
gguice@reminger.com

Counsel for Defendant
Dollar General Corporation

/s/ Tracey S. McGurk

TRACEY S. McGURK (0069631)

Counsel for Defendant
PepsiCo., Inc.